

Issue Paper: Proposing changes to the Washington State Label Approval Program and the process for Fortified Wine tax collection

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DESCRIPTION OF ISSUE

During the Washington State Liquor Control Board (WSLCB) priorities in government exercise, the Licensing and Regulation Division identified “label approval” as a task or work process that could potentially be eliminated.

The purpose of this issue paper is to explore options to reduce or change the label approval program to a program similar to Oregon where the federal Department of Treasury Alcohol and Tobacco and Trade Bureau (TTB) label approval suffices for wine and beer products sold in Washington state.

BACKGROUND

Currently, Washington law, in RCWs 66.28.100, 66.28.110, and 66.28.120, states what is required on product labels for spirits, beer and wine. The WSLCB conducts a label approval program within the Licensing and Regulation Division Non-Retail (MIW) Team. Four customer service specialists conduct the work required to approve labels and post them to an external Internet Web site for customers to view. Approximately one FTE is totally dedicated to the label approval work, but the duties are split between all four customer service specialists. Generally, the customer service FTE reviews labels and takes questionable labels to the MIW manager, who makes a recommendation based on past approvals and denials. This comprises only 10 percent of MIW manager’s time except during wine crush, when more wine products come to the market in fall of each year.

The approval process includes verifying the product type and manufacturer of the product, reviews to ensure the label or package is not appealing to children per rule, review alcohol content and approval of packaging.

OPTIONS CONSIDERED

- A. Follow the Oregon Liquor Commission label program:
 - 1. Receive labels and packages for cursory review and retention
 - 2. Bring only those that appear to appeal to children or that potentially target younger age groups forward for Licensing Director decision and send to the Board for denial.
- B. Keep the label approval program but reduce the effort and related workload:
 - 1. Require that labels and packages be submitted for tracking purposes only. Staff will continue to enter labels into the system.
 - 2. Enforcement of label content would be complaint-driven.

- C. Stop the label approval program and only require TTB label approval. TTB does not approve packaging of liquor, only labeling of liquor. WSLCB Enforcement would report violators when in the field or if label/package complaint is reported.

Industry may support removal of the state label program as it has been argued in the past that this review impedes their business.

Recommendation

The Licensing and Regulation Division Director and Non-Retail Licensing Manager recommend that the Board end the current WSLCB label and packaging approval program and only require TTB label approval for beer and wine as the agency does currently for spirituous liquor. Non-Retail Licensing Team would no longer receive images of labels and would not update the label database.

Ending the label and packaging approval program would mean creating an agency interim policy and rewriting related WACs for beer and wine, which currently require that beer and wine labels have state approval in addition to federal approval of labels.

The TTB does not approve packaging of liquor, only labeling of liquor, thus related packaging WACs would also need to be re-written to end state approval of packaging.

Enforcement would be on a complaint-based system. The Non-Retail Enforcement Unit would investigate and write violations if labels did not comply with law and/or rule.

We recommend the Board set a date in the future for label approval to end. This should be done at a public meeting and may be accomplished by interim policy with the promulgation of rules to follow.

Regularly, the Non-Retail team will review information provided from the TTB and the National Alcohol Beverage Control Association (NABCA), along with news alerts sent to control states about products or labels of concern. If a label or product is of concern, the Non-Retail Compliance Administrator will bring the issue to the attention of their Licensing Manager who will share it with division management to discuss sending it to the Enforcement Division for review of potential violation of state label requirements.

Recommendation - Fortified Wine Data used by Tax Desk and agency Auditors

Currently, MIW staff enters data regarding fortified wine into the Beer and Wine Price Posting system. Fortified wine is taxed at a higher rate. The fortified wine data can be generated into an Excel spreadsheet on the agency Internet site. The tax desk and agency auditors use this data for their purposes.

After the Board adopts the Issue Paper and Interim Policy, rules will need to be updated to create a procedure to track fortified wine production for collection of the higher tax.

Communication Plan

After Board approves the interim policy, the Licensing and Regulation Division Non-Retail Compliance Administrator will notify TTB that state label approval program is changing and provide an update to them.

The Non-retail Compliance Administrator and Licensing Manager will work with the Communications Team to announce this to affected licensees, the public and national organizations or associations. Suggested ways to communicate this change include:

- Post and disseminate a news release
- Post news on the Price Posting site
- Send a mailing about the change to all non-retail licensees
- Send e-mails to stakeholder groups, including large national beer and wine entities
- Distribute information to TTB, NABCA and NCSLA

APPLICABLE LAWS AND WACs

Please see attached document with full text of related laws and rules

Wine

RCWs 66, 24, 210, 66.28.120

WAC 314-24-040

WAC 314-24-080

WAC 314-24-090

Beer

RCW 66.28.110

WAC 314-20-020

WAC 314-20-030

WAC 314-20-130

ATTACHMENTS:

- 1. AUGUST 19, 2009 LABEL APPROVAL PROGRAM CHANGES INTERIM POLICY**
- 2. RELATED RCW AND WAC LIST**